

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

Jane E. Pauley,)
vs.)
Plaintiff,) Case No.
vs.)
Credit Management Services, Inc.,) **COMPLAINT
AND DEMAND
FOR JURY TRIAL**
Defendant.)

COMES NOW the Plaintiff, by and through her attorneys William L. Reinbrecht and Pamela A. Car, of Car & Reinbrecht, P.C., L.L.O., and states that this is an action brought by an individual consumer for Defendant's violations of the FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C. §1692 et seq. (hereinafter referred to as the "FDCPA"). In support of her claim the Plaintiff states and alleges as follows:

JURISDICTION AND PARTIES

1. That subject matter jurisdiction of this Court arises under 15 U.S.C. §1692k, actionable through 28 U.S.C. §1331 and other provisions of the law.
2. That venue is proper in this Court for the reason that the events upon which the Plaintiffs' claims are based occurred in this Judicial District.
3. That the Plaintiff is a resident of Omaha, Douglas County, Nebraska.
4. That Defendant Credit Management Services, Inc. (hereinafter referred to as "CMS") is a debt collector and a corporation organized and existing under the laws of the State of Nebraska and is doing the business of collecting debts in this state.

FACTUAL BACKGROUND

5. That at all times relevant hereto, Defendant was attempting to collect a debt alleged to be owed by the Plaintiff to original creditor, Midwest Orthopedics for personal, family, or household purposes.

6. That during the course of attempting to collect the alleged debts, on or about January 16, 2009, Defendant CMS filed a state court collection complaint against Jane E. Pauley in the County Court of Douglas County Nebraska, at Case No. CI-09-1658.

7. On April 5, 2009, Plaintiff Jane E. Pauley paid CMS by her personal check No. 1241 the principal amount of \$122.61 alleged in the state court Complaint plus prejudgment interest of \$5.89 for a total of \$128.50, as alleged in the state court Complaint. The state court Complaint states that there remains unpaid a total sum of \$122.61.

8. On or about May 14, 2009, prior to the entry of any judgment, CMS sent Jane Pauley a letter returning her check for \$128.50 and demanded that Plaintiff pay additional amounts to resolve the alleged account including principal of \$122.61, Interest of \$8.36, Attorney fees of \$17.51, and Costs of \$104.30, for a total of \$235.27.

9. On or about June 26, 2009, upon the initiation of CMS a Default Judgment was entered in favor of CMS and against Jane E. Pauley in the principal amount of \$92.61, for prejudgment interest for \$9.08, for Attorney Fees for \$14.26, for Court Costs of \$86.79, for Post-Judgment Costs of \$13.95, for a total judgment of \$216.69.

10. The judgment taken was an uncontested default judgment notwithstanding the fact that the Plaintiff previously responded to CMS with her payment of the balance alleged in the state court Complaint.

CAUSE OF ACTION
FAIR DEBT COLLECTION PRACTICES ACT

The Plaintiff for her Cause of Action against the Defendant states and alleges as follows:

11. That the Plaintiff is a natural person and is a “consumer” within the meaning of the Fair Debt Collection Practices Act, 15 U.S.C. §1692a(3).
12. Defendant is located in Nebraska and is engaged in the business of collecting debts and regularly attempts to collect debts alleged to be due another by use of the mail and telephone and as such, is a “debt collector” within the meaning of 15 U.S.C. §1692a(6).
13. That at all times relevant hereto the Defendant was attempting to collect a debt alleged to be in default and owed by the Plaintiff concerning bills for personal, family or household purposes.
14. That during the course of attempting to collect the alleged debt, Defendant:
 - a) made false representations of the character, amount, or legal status of the alleged debt in violation of 15 U.S.C. §1692e(2) (A) & (B);
 - b) used false representations or deceptive means to collect or attempt to collect the alleged debt in violation of 15 U.S.C. §1692e; and
 - c) attempted to collect amounts (including interest, attorney fees, charges, or expenses, incidental to the principal obligation) where the amount was not expressly authorized by the agreement creating the alleged debt or permitted by law in violation of 15 U.S.C. §1692f.

WHEREFORE, Plaintiff prays for a judgment against the Defendant for statutory damages, actual damages, and statutory attorneys’ fees and costs of this suit and for such other and further relief as the Court shall deem appropriate.

Dated: September 2, 2009

Jane E. Pauley,
Plaintiff,

By: /s/ William L. Reinbrecht

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JURY DEMAND

Plaintiffs demand a trial by jury as to all issues so triable in Omaha, NE.

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